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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 UNITED STATES OF AMERICA,)

14 Plaintiff,)

15 v.)

16 TIMOTHY RONALD OBERT,)

17 Defendant.)
18

No. 04-20107 RMW

PLEA AGREEMENT

19
20 I, Timothy Ronald Obert, and the United States Attorney's Office for the Northern
21 District of California (hereafter "the government") enter into this written plea agreement (the
22 "Agreement") pursuant to Rules 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal
23 Procedure:

24 The Defendant's Promises

25 1. I agree to plead guilty to Count Two of the captioned Second Superseding
26 Indictment charging me with sexual abuse of a minor within the special maritime and territorial
27 jurisdiction of the United States in violation of 18 U.S.C. §§ 2243(a) & 7(9)(B). I agree that the
28 elements of the offense and the maximum penalties are as follows: (1) Defendant knowingly

PLEA AGREEMENT
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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

1 engaged in a sexual act with a minor; (2) the minor had reached the age of twelve years but had
2 not yet reached the age of sixteen years; (3) the minor was at least four years younger than the
3 defendant; and (4) the offense was committed within the special and maritime jurisdiction of the
4 United States.

- | | | | |
|---|----|---|------------|
| 5 | a. | Maximum prison sentence | 15 years |
| 6 | b. | Maximum fine | \$ 250,000 |
| 7 | c. | Maximum supervised release term | 3 years |
| 8 | d. | Mandatory special assessment | \$ 100 |
| 9 | e. | Registration as sex offender, 18 U.S.C. § 4042(c) | |

10 2. I agree that I am guilty of the offense to which I will plead guilty, and I agree that
11 the following facts are true:

12
13 I am a natural-born United States citizen. In or about September of 2001, I
14 traveled from the United States to Costa Rica to work as a Volunteer for the Peace
15 Corps. The Peace Corps had paid for me to travel to Costa Rica and made my
16 living arrangements in Costa Rica. As a Peace Corps Volunteer, I was assigned to
17 work with "PANI," the child welfare agency of Costa Rica, which sought to help
18 underprivileged children. The Peace Corps is an independent federal agency of
19 the United States government. Accordingly, the Peace Corps is a mission of the
20 United States government. Further, during my stay in Costa Rica from in or about
21 September of 2001 through on or about July 15, 2003, when I early terminated
22 from the Peace Corps and returned to the United States, I was a personnel
23 assigned to a United States mission.

24
25 On or about July 6, 2003, while I was in Costa Rica, and while I was
26 serving as a Peace Corps Volunteer there, I knowingly and intentionally engaged
27 in illicit sexual conduct with a Costa Rican minor in the apartment in which I was
28 residing during my service in the Peace Corps. I knew that Costa Rican minor
was in fact a minor before engaging in sexual conduct with him. At the time of
the July 6, 2003 incident, the Costa Rican minor was 14 years old, and I was 35
years old.

3. I agree to give up all rights that I would have if I chose to proceed to trial,
including the rights to a jury trial with the assistance of an attorney; to confront and cross-
examine government witnesses; to remain silent or testify; to move to suppress evidence or raise

1 any other Fourth or Fifth Amendment claims; to any further discovery from the government and
2 to future DNA testing of physical evidence in the government's possession; and to pursue any
3 affirmative defenses and present evidence.
4

5 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
6 the Court. I also agree to waive any right I may have to appeal my sentence, including any orders
7 relating to forfeiture and/or restitution.

8 5. I understand that under 18 U.S.C. § 3600, I have the right, under certain
9 circumstances, to post-conviction DNA testing of evidence in the government's possession in
10 support of a claim that I am actually innocent of the offense to which I am pleading guilty under
11 this plea agreement. I agree to waive my right to post-conviction DNA testing and my right to
12 file a petition under 18 U.S.C. § 3600 to compel that testing.
13

14 6. I agree not to file any collateral attack on my conviction or sentence, including a
15 petition under 28 U.S.C. § 2255, at any time in the future after I am sentenced, except for a claim
16 that my constitutional right to the effective assistance of counsel was violated
17

18 7. I agree not to ask the Court to withdraw my guilty plea at any time after it is
19 entered.
20

21 8. I agree that the Court will calculate my sentencing range under the Sentencing
22 Guidelines. I understand that the Court, while not bound to apply the Guidelines, must consult
23 those Guidelines and take them into account when sentencing. The parties are free to argue for
24 departures from the Guidelines for any reason. I agree that regardless of the sentence that the
25 Court imposes on me, I will not be entitled, nor will I ask, to withdraw my guilty pleas.
26

27 a. Base Offense Level, (U.S.S.G. § 2A3.2(a)): 18

28 b. Acceptance of responsibility:

(If I meet the requirements of
U.S.S.G. § 3E1.1)

-3

c. Adjusted offense level

15

I understand, however, that the government is free to argue only the following two upward adjustments in the offense level: (1) a four-level adjustment for unduly influencing a victim to engage in prohibited sexual conduct under U.S.S.G. § 2A3.2(b)(2)(B); and (2) a five-level adjustment for engaging in a pattern of activity involving prohibited sexual conduct under U.S.S.G. § 4B1.5(b)(1). I am free to oppose any enhancements. I agree that, regardless of any other provision in this Agreement, the government may and will provide to the Court and the Probation Office all information relevant to the charged offenses or the sentencing decision. I also agree that the Court is not bound by the Sentencing Guidelines calculations above. The Court may conclude that a higher or lower sentence is appropriate, and, if it does, I will not be entitled, nor will I ask, to withdraw my guilty plea.

9. I agree that I will make a good faith effort to pay any fine, forfeiture or restitution I am ordered to pay. Before or after sentencing, I will, upon request of the Court, the government, or the U.S. Probation Office, provide accurate and complete financial information, submit sworn statements and give depositions under oath concerning my assets and my ability to pay, surrender assets I obtained as a result of my crimes, and release funds and property under my control in order to pay any fine, forfeiture, or restitution. I agree to pay the special assessment at the time of sentencing.

10. I agree not to commit or attempt to commit any crimes before sentence is imposed or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial release (if any); intentionally provide false information to the Court, the Probation Office,

1 Pretrial Services, or the government; or fail to comply with any of the other promises I have
2 made in this Agreement. I agree not to have any contact with any victims or witnesses in this
3 case, either directly or indirectly, before and after I am sentenced. This includes, but is not
4 limited to, personal contact; telephone, mail, or electronic mail contact; or any other written form
5 of communication; and includes any harassing, annoying, or intimidating conduct by me directed
6 to any victims or witnesses. I agree that the Court should include this Agreement as a condition
7 of my supervised release term. I agree that, if I fail to comply with any promises I have made in
8 this Agreement, then the government will be released from all of its promises in this Agreement,
9 including those set forth in paragraphs 13 through 15 below, but I will not be released from my
10 guilty plea.
11

12
13 11. I agree that this Agreement contains all of the promises and agreements between
14 the government and me, and I will not claim otherwise in the future.
15

16 12. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
17 District of California only, and does not bind any other federal, state, or local agency.
18

19 The Government's Promises

20 13. The government agrees to move to dismiss any open charges pending against the
21 defendant in the captioned Second Superseding Indictment at the time of sentencing.

22 14. The government agrees not to file or seek any additional charges against the
23 defendant that could be filed as a result of the investigation that led to the captioned Second
24 Superseding Indictment.

25 15. The government agrees to recommend the Guidelines calculations set out above.
26

27 The Defendant's Affirmations

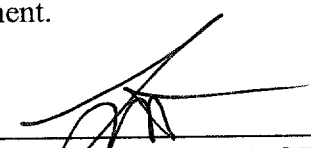
28 16. I confirm that I have had adequate time to discuss this case, the evidence, and this

1 Agreement with my attorney, and that he has provided me with all the legal advice that I
2 requested.

3 17. I confirm that while I considered signing this Agreement, and at the time I signed
4 it, I was not under the influence of any alcohol, drug, or medicine.


5 18. I confirm that my decision to enter a guilty plea is made knowing the charges that
6 have been brought against me, any possible defenses, and the benefits and possible detriments of
7 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
8 one coerced or threatened me to enter into this Agreement.
9

10
11 Dated: 2/1/06


TIMOTHY RONALD OBERT
Defendant

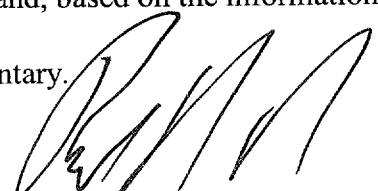
14 KEVIN V. RYAN
15 United States Attorney

16
17 Dated: 2/1/06


SHAWNA YEN
Assistant United States Attorney

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19
20 I have fully explained to my client all the rights that a criminal defendant has and all the
21 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement
22 and all the rights he is giving up by pleading guilty, and, based on the information now known to
23 me, his decision to plead guilty is knowing and voluntary.
24

25
26 Dated: 2-1-06


PAUL MELTZER, ESQ.
Attorney for Defendant